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Attorneys for Dive Army

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DIVE ARMY, a California General
Partnership,

Plaintiff,

v.

KENNETH P. YAN, an individual; PHILIP
E. GUERRERO, an individual; and DOES 1
through 10, inclusive,

Defendants.

Case No. 3:13-cv-04873-JSC

**STIPULATED PERMANENT INJUNCTION;
[PROPOSED] ORDER**

IT IS HEREBY STIPULATED by and between Plaintiff DIVE ARMY ("Plaintiff") and
Defendants KENNETH P. YAN and PHILIP E. GUERRERO (collectively "Defendants"):

1. That Defendants, their agents, servants, employees, and all persons acting in concert or
participation with them, be enjoined from:

a. Using any combination, reproduction, counterfeit, copy or colorable imitation of
Plaintiff's DIVE ARMY trademarks, which are the subject of United States Trademark
Serial Nos. United States Patent and Trademark Office Serial Numbers 85829025,

1 85829185, and 86092297, in connection with the advertising, distribution, offering for
2 sale, or sale of any goods or services throughout the world;

3 b. Using any combination, reproduction, counterfeit, copy or colorable imitation of
4 the DIVE ARMY trademarks in any manner likely to cause confusion, to cause mistake
5 or to deceive the public or likely to injure Plaintiff's business, reputation, or the
6 reputation and goodwill of the DIVE ARMY trademarks throughout the world;

7 c. Selling, offering to sell, advertising, promoting, or passing off, inducing or
8 enabling others to sell, offer to sell, advertise, promote or pass off any goods or services
9 similar to those provided by Plaintiff under a name or mark the same as or similar to
10 Plaintiff's DIVE ARMY trademarks or utilizing the words "dive" or "army" in the
11 promotion of such goods or services except for in a strictly descriptive form and in no
12 case as a portion or the entirety of any trademark throughout the world;

13 d. Committing any acts calculated to cause customers or consumers to believe that
14 Defendants' goods or services are the approved goods or services of Plaintiff and
15 otherwise competing unfairly with Plaintiff in any manner, including, but not limited to,
16 using Plaintiff's DIVE ARMY trademarks or any confusingly similar marks throughout
17 the world;

18 e. Otherwise competing unfairly with Plaintiff in any manner, including, but not
19 limited to, infringing usage of Plaintiff's DIVE ARMY trademarks or any confusingly
20 similar marks throughout the world.

21 2. That Defendants be required to deliver up to Plaintiff for destruction, any and all
22 materials which bear Plaintiff's DIVE ARMY trademarks or otherwise utilize the mark DIVE ARMY
23 or the words "dive" or "army" in the promotion of such goods or services except for in a strictly
24 descriptive form in their possession or under their control;

25 3. That Defendants be required to deliver up to Plaintiff for destruction, any and all catalogs,
26 circulars and other printed material in their possession or under their control displaying or exploiting
27 Plaintiff's DIVE ARMY trademarks or otherwise utilize the mark DIVE ARMY or the words "dive" or
28 "army" in the promotion of such goods or services except for in a strictly descriptive form;

4. That Defendants be required to supply Plaintiff with a complete list of entities or individuals to whom they have offered for sale products bearing any of the DIVE ARMY trademarks, and be required to contact such entities, inform them that such items are no longer for sale and may no longer be offered for sale, and providing them with the means of blacking-out the offerings of said products in their advertising materials;

5. That Defendants shall provide, within thirty (30) days of the entry of the Stipulated Permanent Injunction, a written statement, under oath or affirmed under penalty of perjury, setting forth in detail the form and manner in which they have complied with the Stipulated Permanent Injunction.

SO STIPULATED.

Dated: December 6, 2013

MYERS LIN LLP


 David A. Bernstein
 Attorneys for Plaintiff DIVE ARMY

Dated: December __, 2013

 Kenneth P. Yan, Defendant

Dated: December __, 2013

 Philip E. Guerrero, Defendant

MYERS LIN LLP
 7545 IRVINE CENTER DRIVE, SUITE 200
 IRVINE, CALIFORNIA 92618

1 4. That Defendants be required to supply Plaintiff with a complete list of entities or individuals to
2 whom they have offered for sale products bearing any of the DIVE ARMY trademarks, and be required
3 to contact such entities, inform them that such items are no longer for sale and may no longer be offered
4 for sale, and providing them with the means of blacking-out the offerings of said products in their
5 advertising materials;

6 5. That Defendants shall provide, within thirty (30) days of the entry of the Stipulated
7 Permanent Injunction, a written statement, under oath or affirmed under penalty of perjury, setting forth
8 in detail the form and manner in which they have complied with the Stipulated Permanent Injunction.
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10 SO STIPULATED.
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12 Dated: December __, 2013

MYERS LIN LLP

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15 David A. Bernstein
Attorneys for Plaintiff DIVE ARMY

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17 Dated: December 9, 2013

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Kenneth P. Yan, Defendant

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20 Dated: December __, 2013

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22 Philip E. Guerrero, Defendant
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1 4. That Defendants be required to supply Plaintiff with a complete list of entities or individuals to
2 whom they have offered for sale products bearing any of the DIVE ARMY trademarks, and be required
3 to contact such entities, inform them that such items are no longer for sale and may no longer be offered
4 for sale, and providing them with the means of blacking-out the offerings of said products in their
5 advertising materials;

6 5. That Defendants shall provide, within thirty (30) days of the entry of the Stipulated
7 Permanent Injunction, a written statement, under oath or affirmed under penalty of perjury, setting forth
8 in detail the form and manner in which they have complied with the Stipulated Permanent Injunction.

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10 **SO STIPULATED.**

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12 Dated: December __, 2013

MYERS LIN LLP

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David A. Berstein
Attorneys for Plaintiff DIVE ARMY

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17 Dated: December __, 2013

18 _____
Kenneth P. Yan, Defendant

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20 Dated: December 6, 2013

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Philip E. Guerrero, Defendant

ORDER


Dive Army v. Kenneth P. Yan, et al.

Northern District of California Case No. 3:13-cv-04873-JSC

IT IS HEREBY ORDERED THAT a Permanent Injunction be entered pursuant to the stipulation, attached hereto, by and between Plaintiff DIVE ARMY, Defendant KENNETH P. YAN, and Defendant PHILIP E. GUERRERO.

IT IS SO ORDERED.

Dated: December 10, 2013



Jacqueline S. Corley
United States Magistrate Judge